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THOUGHTS

ON THE

PRIVILEGES AND POWER OF JURIES,

SUGGESTED BY

THE CASE OF JAMES ROBERTSON AND WALTER BERRY,
And
PRINTER AND BOOKSELLERS, EDINBURGH:

TO WHICH ARE ADDED,

OBSERVATIONS

ON THE

PRESENT STATE OF THIS COUNTRY,

IN WHICH

THE CAUSES OF THE NUMEROUS FAILURES ARE EXPLAINED,

AND A PLAN SUGGESTED

BY WHICH

THE PROGRESS OF THAT ALARMING EVIL MAY BE STOPPED,

AND CREDIT RESTORED TO ITS FORMER STATE.

EDINBURGH:

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THOUGHTS

PRIVILEGES AND POWER OF JURY

THE following ESSAY was published in the Bee, with no alteration except a few words, and is now published by itself at the desire of several persons who wished to be possessed of it unconnected with other matter.

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THOUGHTS, &c.

THIS cause is of importance, chiefly because of the peculiarity of the verdict returned by the jury, and the discussions to which that has given rise. The case was briefly as follows :

James Robertson and Walter Berry were indicted by the lord advocate for Scotland, of having been guilty, the said James Robertson of printing and publishing, and the said Walter Berry of publishing, with a wicked and felonious intention, some time in the month of June last, a treasonable and seditious pamphlet entitled the Political Progress of Britain. Being brought before an assize, the pannels pleaded not guilty of the charge ; and the whole facts and circumstances being submitted to a jury, the gentlemen of the jury, after mature deliberation, returned a verdict all in one voice, " finding it proven, that the said James Robertson did print and publish, and the said Walter Berry did publish only, the pamphlet libelled on."

When this verdict was returned to the court, the counsel for the pannels contended, that from the nature of the verdict given, it became necessary for the court to absolve the pannels, and dismiss them from the bar, on this footing, that the jury had not found any part of the indictment proven, that could imply the smallest share of guilt. They neither had found that the pamphlet libelled was of a *treasonable or seditious tendency*, nor that the pannels had printed or published it *with a wicked or malevolent intention*, but simply, that they had printed

and published the pamphlet libelled on ; but there surely could be no harm in printing and publishing any writing which was not found to be of a dangerous tendency. The counsel even contended, if the jury had found the pamphlet libelled on was of that dangerous nature, could the pannels be declared guilty of a crime that inferred a severe punishment, since, for any thing that appeared, it might have been done with an innocent and harmless intention ? The court demurred ; ordered memorials to be given in to them before sentence should be pronounced, and postponed deciding upon it to a future day. When that day arrived, they again, without any cause assigned, postponed it till another, and another, and another day ; which gave reason to believe, that the court had met with difficulties it could not easily get over, which excited the public attention in a high degree.

On Monday the 18th March, the court met for the fourth time upon this cause, and the judges separately delivered their opinions on this subject at great length ; of which the following, it is hoped, will be found to be a fair abstract.

It seemed to be in general the opinion of the court, that since the jury had not thought proper to give a clear and decisive verdict, finding the whole matter libelled either *proven* or *not proven*, or finding the pannels *guilty* or *not guilty* ; but had chosen to return a special verdict to the effect above stated : that therefore the court considered it in the same light as if the jury, declining to exercise the functions of jurymen, had thus legally divested themselves of that character, and had devolved it upon the court, which was now called upon to step into the place of the jury, and to exercise the same functions in this case as the jury themselves were entitled to exercise, while they continued to act in that character.

Hence the learned judges thought it came within their province to examine all the facts and circumstances that could tend to enlighten their judgements and direct their consciences, in the same manner as a jury might, and ought to do, in the ordinary exercise of their legal powers.

On this principle, the learned judges entered upon a wide field of discussion, some of them occupying one ground, and some another, as the circumstances struck their fancy, so as to produce a considerable diversity of opinions. One of the learned lords could not find in the Scots law any statute, nor in the records of the Scotch courts any decisions, tending to show that the publishing a treasonable or seditious book was, either by statute or common law, punishable in Scotland. This he regretted as a defect in the Scotch law, which he wished to see corrected, either by a new law enacted by the legislature, or by a new law made by that court. Another of the learned judges strongly reprobated the idea of that court making any new law, (the former judge explained, he only meant they should give a decision that might serve as a rule to their successors,) but adduced no examples to prove that any statute existed, or that any former decision of that court could be adduced to show that they were authorised, by the common law of Scotland, to pronounce a definitive sentence of punishment in this case. Others of the learned lords, leaving this point out of view, proceeded to give their opinions as to the comparative degree of criminality that existed between the *printing* and the *publishing* any paper that was of a reprehensible nature. Some of them were of opinion that the publishing of such a paper was a crime, if a crime at all, of a much less reprehensible nature than the printing of it; and therefore proposed that Mr Berry

should be freed from all punishment; but that Mr Robertson should be subjected to the pains of law; while others, on the contrary, represented the mere printing as an act of no criminality at all, but the publishing, as a crime of the greatest enormity*. Upon the whole, it appeared that the court in general were disposed to be more lenient to Mr Berry than to Mr Robertson.

When at length it came to the turn of the learned president of that court to speak, he said, that the great

* It deserves to be noted, that in the course of the reasoning, where the learned judges assumed the province of jurymen, one circumstance that seems to be of considerable importance in this cause never was brought into view, *viz.* the difficulty that may have occurred to the pannels, even if they should have attempted to judge of the criminality of the publication. The jury had not said there was any thing criminal in it; and there were no doubt many persons in the court, even at the time of the decision, who, if the pamphlet had been submitted to their judgement, would not have found any thing criminal in it. We all know that every man in this kingdom is fully authorised to point out, and to reprobate in the severest terms, abuses in the *administration* of government, wherever these exist; and they might have conceived that nothing else was contained in it. If the criminality of the pamphlet had been very obvious, it was not to be supposed that the persons whose business it is to watch over the public tranquillity, could have required six months time to deliberate upon it before they could determine whether it could be reckoned of a dangerous tendency or not,—for so long at least the pamphlet had been published before any notice was taken of it. But if men who, *ex officio*, are bound to watch over the public tranquillity, and whose business it is to understand things of this nature, were so much diffculted in this case, can we be surprised that men, acting in the ordinary course of business, could see nothing improper in this publication? It is the business of jurymen to take into their view every circumstance that can tend to aggravate or to alleviate the criminality of the deed libelled; especially in such cases where the *animus* alone constitutes the criminality; and more particularly in regard to those cases where no discriminate line can be drawn to ascertain the precise bounds between *praise worthy* and *guilty* actions.

question at that time before the court was; whether the verdict that had been returned by the jury was a just and legal verdict, upon which their lordships could proceed to give judgement; or if it was defective and imperfect as had been contended for by the counsel for the pannels, so as not to authorise judgement to pass upon it. On this head, he himself had no doubt. It was a full and clear verdict, he said, including every thing that the law required to render it decisive and valid; and though the jury might no doubt have gone farther, and if they had pleased, might have made the verdict general, by either acquitting or condemning, and thus have left the court only the power of uttering the sentence; yet he conceived they had in this case acted with much more propriety, by confining themselves to the proper office of a jury, without inroaching on the province of the court, by merely finding the fact proven, leaving the court, as ought always to be the case, to draw the inferences that would necessarily flow from the fact. The libel stated that the pamphlet there mentioned is a seditious pamphlet; and the court, on the pleadings for the relevancy*, having previously determined, that if

* This word will not be intelligible to persons unacquainted with the law of Scotland. In criminal cases that are tried before the Court of Justiciary in Scotland, it is customary for the counsel for the pannels, at the commencement of the trial, to make such remarks upon the indictment as occur to them, as tending either to render the indictment nugatory, or to confine the punishment to the mildest sort possible, in case the jury should find the pannel guilty. On that occasion, the court, after due deliberation, may either quash the trial entirely, if they find the indictment such as, if even fully proven, would not be relevant to infer the pains of law; or they find the indictment relevant to infer the pains of law: and at that time they usually state to the jury, whether the law will award death in that case, or only an arbitrary punishment. It is this circumstance in the trial that is here

the libel should be proven, it would necessarily infer the pains of law, had fully determined that point; the jury therefore had nothing to do with it whatever, and in the verdict they had returned, they had paid a proper deference to the court in this instance: that if the deed libelled was in itself evil, the committing that deed must alone be deemed a sufficient proof of the *malus animus*

alluded to. To give an example: Suppose, in the case now under consideration, the indictment had charged the pannels simply with "Printing and publishing a pamphlet called *the Political Progress of Britain*," the counsel for the pannels would have pleaded, that though the whole circumstances libelled should be proven, no punishment could be relevant to follow on any verdict the jury could give: and there is little doubt but the judges would have concurred with them, and would have thus dismissed the cause as irrelevant. Suppose again, as actually happened in the first indictment with which the pannels in this case were served, it bore "That the pannels had printed and published a *treasonable and seditious pamphlet*, entitled *THE POLITICAL PROGRESS OF BRITAIN*," still the counsel would have contended, that no punishment would be relevant upon this indictment, because the pannels had not been charged with having published this treasonable pamphlet from a *wicked intention*; in the same manner as a person could not be punished for uttering a forged bond, unless he had been at the same time indicted for having done so, *knowing it had been forged*; and there is reason to believe, the judges in this case also would have sustained the plea, and dismissed the cause as irrelevant. So conscious at least did the crown lawyers seem to be of this, that they did not choose to bring forward the trial on that indictment; or at least, the trial, while the indictment stood so, was deserted, under the *pre-text* that the author of the pamphlet, who had been served with an indictment *in due form* at the same time, had not been apprehended: and the public were disposed to believe, that the *real* cause of delay was the above mentioned flaw in the indictment. At length the pannels were served with an indictment, specifically charging them "With having printed and published, *with a wicked and felonious intention*, A TREASONABLE AND SEDITIOUS PAMPHLET, entitled *THE POLITICAL PROGRESS OF BRITAIN*;" and it was this indictment, *so amended*, that the judges had found relevant to infer the pains of law.

of the person that committed it : that as the jury had found it proven, that the pannels had printed and published the pamphlet *libelled on*, it necessarily inferred that they meant it should include all the particulars libelled. For these reasons, he was satisfied that the verdict was as complete as could be desired ; and fully authorised the court to award whatever punishment their lordships should think proper to inflict upon the pannels. He then proceeded *seriatim*, to collect the opinion of each of the judges as to the punishment ; who finally concurred in awarding the punishment to be six months imprisonment to Mr Robertson, and three months to Mr Berry ; the parties respectively to find bail that they should keep the peace for three years, under the penalty of L. 100 each.

It deserves farther to be noted, that in the course of these speeches, one of the learned lords took occasion to remark, that it was often asked why the law lately enacted respecting juries in England, did not extend to Scotland ? For the best reason in the world, he said, *viz.* because juries in Scotland were already, long before that act took place, in the full possession of all the privileges that act conferred upon juries in England. It was therefore unnecessary, and would have been absurd, to extend a privilege to Scotland with which it was already fully invested.

It deserves also to be remarked, that however much the opinions of the learned bench might differ as to other particulars, and however much it might seem to clash with some of the opinions above stated ; yet they all concurred in admitting, in the most unequivocal manner, that the power of the jury extended to the cognizance of the whole of the matter laid before them ; and that if they chose to exert that power, nothing could prevent them from

giving a clear and definitive acquittal or condemnation by a general verdict, either for or against the pannel, without a power in the judges, or any other person, to quarrel or gainsay whatever they had done. This was the only point in regard to which there was no diversity of opinion ; and jurymen will do well to advert to this in future ; because it affords a proper clue to direct their conduct in all cases where they shall have any doubt, and lets them know what is the only mode of insuring a certain compliance with what they wish should be effected.

The opinion of men and of judges respecting criminal jurisprudence has altered very much in every part of Britain within this present century ; and from the opinions delivered in this case it appears, that it is only in regard to a very few particulars the law is yet firmly and decidedly fixed. Before the noted trial of Carnegie of Finhaven, the ideas respecting criminal jurisprudence were much less liberal than at present ; but by the spirited conduct of Mr Dundas, the late respectable president of the Court of Session, who on that occasion, as counsel for the pannel, combated *successfully* the opinion of the whole bench of judges, he gained immortal honour to himself, and conferred a favour on his country, that ought to render his name respected by every person who knows how to value the blessings of freedom and personal security. The libel in that case bore, " That Mr Carnegie had, *with a wicked and felonious intention*, wounded the body of the earl of Strathmore by a sword, of which wound he died ;"—and in the pleadings on the relevancy the judges declared, that if the jury should find the simple fact, as there set forth, proven, it was sufficient to infer the pains of death. In this case the judges assumed to themselves the power of affixing a degree of criminally to the fact libelled, which they contended the jury

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had no right to controvert. If they should find the fact proven, the court pretended that they could not deny the guilt. The fact, *viz.* that Carnegie had wounded lord Strathmore with a sword, of which wound he died, was proven by the clearest and most undeniable evidence; but fortunately for the cause of freedom, the evidence was also so complete with respect to the *animus* of the unfortunate pannel, as to bring home the most unequivocal conviction to the heart of every juror, that the pannel had no intention of hurting lord Strathmore in the smallest degree; so that, influenced by the powerful reasoning of Mr Dundas, concurring with their own strong feelings, they ventured to deviate from the rule that had been prescribed to them, and nobly brought a verdict NOT GUILTY. This event has formed an epoch in Scotland with regard to the power of juries; so that since that time, although men may be found who have endeavoured to impress the minds of the public with regard to the conduct that juries ought to hold, no one has been bold enough to venture to challenge their right of doing what their judgement and conscience may induce them to think proper, however contrary that may be to the opinions of men to whom they would look up with reverence, where they did not evidently wish to exercise a power which the constitution of this country has happily vested in other hands.

Juries cannot surely be too careful in preserving inviolate those sacred privileges which the constitution of this country has vested in them; as upon this bulwark alone we may rely with confidence against the incroachments of arbitrary power, more than upon any other whatever: nor ought any degree of misplaced complaisance ever to induce a jury to strain a point to please any mortal breathing, or to put into the hands of another the power to

frustrate the intentions they think in their consciences ought to be carried into effect. In doing otherwise every juryman may be considered as guilty of whatever crime may take place in consequence of his relinquishing that honourable post his country has for the time placed him in. It is not many years since a poor ignorant fellow of a recruit was enticed by two artful villains to go with them from the castle of Edinburgh, and after making him nearly drunk, they conducted him into the Meadows, where the two fellows that were with him robbed a gentleman of his watch and some money, and gave to him the watch as his share of the booty. The poor fellow no sooner became sober, and found the watch upon himself next morning, but having a confused recollection of what had passed in the evening, and being oppressed with anxiety about it, he went and revealed what he knew of it to his officer. One of the culprits made his escape, and the other became king's evidence. It was clearly proven that the poor recruit had been present at the robbery, and that part of the goods taken had been found in his custody. The jury were unanimously of opinion that the man had been inadvertently brought into that distressing situation, and had no evil intention whatever; yet, from some remains of that cruel doctrine operating on their minds, That if the fact were proven, this was all the jury had to do, they, very unguardedly, brought in a verdict **GUILTY**; but unanimously recommended the man to mercy, which they were then persuaded would as effectually save him as if they had brought in a verdict **NOT GUILTY**. The fact showed they were in this case mistaken; for in spite of every possible endeavour on their part afterwards, the man was actually hanged. One who was on that jury, since then assured the Editor, that he would have considered himself as accessory to the murder of that in-

innocent person, if he had not all along contended that they ought to acquit him. Let no jury, after this, put it in the power of any one to prevent that justice from taking place which it is their province on all occasions impartially to administer.

The constitution of this universe, however, is so happily formed, that every evil tends to lead towards its own cure. A desire to grasp at power, as necessarily produces a counter desire in others to prevent that power from becoming immoderate, as a substance produces a shadow. Hence it happens that all the valuable privileges which we in this country so fortunately boast of, have been gradually conferred upon us by attempts to extend authority beyond its due bounds. We have every reason to believe, that should attempts of this kind be made in future, similar happy effects will result from it; so that should a temporary inconvenience be at any time experienced from things of this nature, these ought not to excite *extreme* uneasiness; they ought only to be marked with care, and a steady eye be kept on that point in future. Whenever an attempt shall be made, in consequence of any accidental inadvertency, to wrest the power from a jury, let that pass over as a thing of small moment; but let succeeding juries be more careful to guard their just and acknowledged privileges, by giving no hand to any one to interfere with their decrees. Thus shall the tranquillity of the state be preserved, and the personal security that every man ought to prize as the most valuable of his prerogatives, be guarded by his fellow citizens, in whose hands only it can be entrusted with safety.

OBSERVATIONS

ON THE

PRESENT STATE OF THE COUNTRY.

WITH REGARD TO CREDIT.

WITH

HINTS OF A PLAN

FOR AFFORDING

RELIEF TO MANUFACTURERS AND OTHERS.

AT no former period in the commercial history of this country has any thing equal to the present distress occurred, with regard to the universal complaint of a want of money, arising from the public and private banks having in a great measure given over accommodating those engaged in trade and manufactures with the usual discount of bills. This country has on former occasions been preserved from impending ruin to their commercial concerns, by the very liberal assistance afforded by the Edinburgh banks to all whose funds entitled them to the public confidence. These banks are still under the direction of the same public spirited and liberal minded gentlemen, who have certainly very sufficient reasons for their present caution in discounting, otherwise they would step forward, as in 1788, and support all those who could by a clear state of their affairs show that such assistance would enable them to weather the storm; and who could put such funds or securities in the hands of the banks, as would decidedly insure them from a possibility of loss.

It is well known that the Edinburgh banks have already gone great lengths within the last two months in their endeavours to avert the miserable consequences that must follow here, were the dreadful bankruptcies that have lately happened in England to extend to this end of the island. But as, from the nature of banks and banking, limits naturally arise to their issuing of notes to pass as an equivalent for cash, and for which the public can at all times command specie by applying to the banks, it becomes a duty the directors of banks owe to the proprietors at large, to go no further in issuing notes than experience has taught them can be safely done, according to the extent of their stock. In times like the present, when the hands of the manufacturers and of the merchants are full of goods, in consequence of the very flourishing state of the country some months ago, some expedient should be attempted to support all in that situation, who can produce good funds, either in goods, bills, or heritable property; and I know of none that can be done with equal ease to the banks, and the country at large, as the following.

In the city of Amsterdam, all payments of bills of exchange above 300 guilders must, by an order of the States of Holland of 11th December 1643, be made by the Bank of Amsterdam, established 31st January 1609. The bank receives specie, gold and silver bullion, plate, jewels, &c. the value whereof is placed to the credit of the person who makes the deposit, with whom the bank opens an account, and who, when he has any bills to discharge, gives an order to write off so much from the credit of his account to that of the person to whom the money is payable, who, if he has no account open in the bank's books, applies to a broker, to whom he indorses the bill and order thereon, and receives the value in specie,

together with the *agio*, the bank money being in general from one to four *per cent.* more valuable than the current money of Holland. In this manner the Bank of Amsterdam, without hurting the interests of the trade, has become possessed of the money of the country. No one is reckoned less rich by being possessed only of bank money, since without the smallest difficulty, current money can at all times be procured for it to any extent.

This being premised, my proposal is, that the Bank of England, the Royal Bank, and Bank of Scotland, or other public banks, should receive from the merchants or manufacturers of Scotland, as pledges or deposits, property of every kind, and advance thereon a certain proportion of the value thereof; not in bank notes, (for which specie could be demanded,) but by following the same plan which has been practised near 200 years by the Bank of Amsterdam; or of issuing certificates for a variety of sums from L. 20 and upwards, to be taken in payment of all bills or debts whatever.

We have been so long accustomed to see nothing but paper money in Scotland, that there can be no doubt of their passing current; but if there should, an act of the legislature could authorise their being so. Should this proposal be deemed eligible, the regulations for the sale of the articles so deposited, and for the payment of the interest by the borrower, as well as the re-payment by the banks, of the balances of such sales, the re-delivery of the goods to the person by whom they were deposited, and every other regulation relative to the business, could be easily adjusted.

MERCATOR.

Farther Remarks on the same Subject by the Editor of the Bee.

THE foregoing paper was printed before any notice arrived at this place of Mr Pitt's intention of carrying into practice a plan for the relief of the country, nearly on the same principles with that recommended here. This appears to be one of the most beneficial exertions of the power entrusted with government that has occurred in our time, and will do infinite honour to the minister who brings it forward. I question if in the annals of past times, a single instance can be found of an exertion of any governing power equally patriotic, judicious, and beneficent ; and it affords a fine example of the necessity there is for the controul of government, and the utility mankind may derive from it when under the guidance of wisdom.

The present alarming situation of this country does not seem to proceed either from the interruption that the war has given to commerce, as has been often asserted, nor to a slackening in the demand either at home or abroad, nor to ruinous speculations which so often derange the economy of individuals. The manufacturers do not allege that their orders are discontinued from any quarter, nor that the prices offered are inadequate ; but merely that the state of credit is at present so precarious, that they dare not venture to let goods go out of their hands at the usual credits allowed ; and that from the unexpected interruption which has taken place in the practice of discounting bills, their funds are so entirely locked up as to put it out of their power to answer the immediate demands that have come upon them. That this is the case is sufficiently

obvious to all, seeing it is universally admitted, that nineteen out of twenty of the numerous bankruptcies that have happened are merely stoppages, where the funds are more than adequate to answer all the demands that can be made upon the parties concerned.

This evil, therefore, originates solely in the interruption that has taken place in the salutary practice of discounting bills : and what, we may now ask, has occasioned this destructive interruption to discounting good bills ?

It will not be difficult to answer this question. There is in general a certain quantity of floating cash in this country, which men wish to keep at their command, ready to answer any emergencies. This has been usually in Scotland lodged with bankers at a reasonable rate of interest, a little under that which is given for money lodged on other securities for a definite time. This floating stock has been usually applied almost solely to the accommodation of individuals with cash accounts, and to the discounting of bills. Upon the first prospect of the present war with France stocks having fallen greatly below the par of peace, and it being universally believed that the war could not be of long duration, almost every person who had the command of money, wished to avail himself of the obvious benefit, that this circumstance presented to his view ; so that almost the whole of this floating stock was instantly demanded from the bankers *. This rendered it inconvenient

* From the great wealth that certain bankers in Scotland have suddenly acquired by speculating in the funds, many persons suspected that something of the same kind might have been attempted by the bankers themselves, and that this circumstance took up a great part of that capital which ought to have been employed for accommodating the public. If so, the public would have had good reason indeed to complain of them ; but it is scarcely to be believed that when embarrassments occurred, and the price of stocks not falling, they would not have retired that stock very soon. It would

...r them to discount bills as formerly; and this circumstance again made a greater demand upon them than usual for money upon cash accounts of individuals, which subjected the bankers to additional inconvenience.

Just at that *critical* time, the Bank of England, seemingly with a wanton capriciousness which deserves the severest reprehension, instead of giving that support to country bankers and wealthy companies, which the circumstances here stated rendered so obviously necessary, refused to discount bills, without discrimination of any sort. The consequences were obvious and inevitable. Even those who had very large capitals, from being deprived of their usual resources, were unable to answer, on the moment, the demands that came upon them, and were obliged to stop. These stoppages necessarily affected those immediately connected with them; and these another and another; so that, like a house of cards, one falling brought a whole heap of ruins about it *.

be a very proper clause in Mr Pitt's bill to require every banker applying for relief, previously to make oath that he has no money vested in the funds, and to make it highly penal if it should be discovered he ever had so; perhaps no banking company ought to be permitted to exercise this business without a licence; at obtaining which such oath ought to be administered, and such penalties imposed. Nothing can be more destructive than for bankers who are entrusted with the money of others, to be dabbling in such a deep and hazardous game as the buying and selling stocks; and the public ought to have some good security that they will not do so. I have no doubt but the want of such security has induced many a person to withdraw their money from the bankers at present; and thus to increase the evil.

* Some may perhaps imagine that the Bank of England would experience an inconvenience of the same kind here specified, and would not therefore have it in their power to grant the accommodation wanted. But it is well known, that the course of business is so dif-

In this situation, the minister, with infinite justice and propriety, steps forward to save the country. What the Bank of England *ought* to have done, he now finds himself obliged to do, or to suffer the country to be hurried *needlessly* into a state of universal ruin. As far as his plan is yet known, he seems to intend to give a loan to such banking houses, or other considerable bodies of men, who can produce undeniable evidence of the sufficiency of their funds to answer all demands upon them, of such sums as it shall be deemed safe and prudent to grant to each respectively. These notes to be issued in the form of exchequer bills, bearing interest from the day they are issued; for the payment of which interest, as long as they shall continue in circulation, together with the principal, the parties to whom they are granted will no doubt be required to give sufficient security. Thus will government, without costing the nation a single shilling, turn back into its usual channel, that circulation which has met with such a cruel and ill judged temporary obstruction *.

Nothing can be so ruinous to a manufacturing and commercial country as an interruption to the general current of circulation and credit, where that credit is not attempted to be stretched beyond the real funds of the parties concerned. Indeed it is this credit chiefly which has given to the manufactures and trade of this country that decided advantage they possess above those of all rival nations; for it is well known that it is neither the superior cheapness, nor excellence of British manufactures which gives them the decided advantage they possess above

ferent between that bank and others, that the very circumstance which diminished the resources of the one at the time would tend to augment those of the other. This is no place for explaining this peculiarity.

* The Bank of England, even in this case, will be obliged to concur in circulating these exchequer bills, otherwise they would soon be

others in foreign markets, but the long credits our merchants can afford to give ; and what is it that enables our merchants to give these long credits, but the practice of discounting bills, which enables every one to have the full command of his funds at whatever time he may chance to have occasion for them. Nothing therefore can be so destructive to a country so circumstanced, as a causeless interruption to this circulation on which its existence so materially depends : and the present incident, which shows that it is in the power of *one* body of men, whenever they please, to throw the country into this state of distress, proves that in this particular branch of our commercial arrangements, sufficient care has not been taken to curb that spirit which the excess of power so naturally engenders. Hitherto the Bank of England, like the corporations of old, during the infancy of political societies, has been of great utility to the public ; but is there not danger, that, like them too, the powers conferred upon it may in time become subversive of the interests of that *very* society for whose welfare it was instituted, and which, for a long time, it has so materially promoted ? Let the minister, therefore, and the public, now reflect, whether it is not time to think of establishing some kind of counterpoise to this enormous body, which, like the serpent that sprung from Aaron's rod, seems at present to possess the power of swallowing up all others of the same kind, whenever it shall please to do so. Man is a fallible creature, and power when unchecked is ever in danger of degenerating into despotism. Monopolies in a trading country are always pernicious. But where is there such a monopoly as

greatly depreciated ; but it is not to be supposed, powerful as they are, they will dare to refuse this. It would be kicking against the pricks indeed, should they decline it ; and would soon bring the matter to an issue between them and the country.

the Bank of England *, ought it not to have a rival? It would be presumption in me to pretend to say in what manner this rival should be created; but it requires no superior talents to say that such a rival would be the most effectual check that ever could be given to operations similar to those which have so needlessly thrown this country into its present very distressing embarrassments.

* It is justly reckoned a crime of a very deep dye to impeach the credit of any individual; because that may, almost in any case, occasion a run upon that person which may naturally produce a stoppage and consequent derangement of affairs. But is it not obvious that by the practice pursued on this occasion by the Bank of England, the credit of almost all the principal trading and manufacturing houses in Britain have been impeached, and a general run produced upon them; and stoppage, with all its dismal consequences, has necessarily followed? A public banking company ought to be considered as a servant of the public, which, like an innkeeper, is bound to accommodate all persons without distinction, who apply for it, and have evidently the means in their power of discharging their scores. They ought indeed to have a right of discriminating and of demanding a reasonable security where ever danger is apprehended, but on no occasion ought they to be allowed, I should think, capriciously to adopt a measure of such vast importance in its consequences, and without discrimination to effect a general stop in the circulation of the wealth of the nation.

THE END.



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